

18 AAC is amended by adding a new chapter to read:

Chapter 54. Requirements of the Distribution and Receipt of Financial Aid

Section:

- 10. Applicability
- 20. Eligible entities
- 30. Eligible subgrant proposals
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18 AAC 54.010. Applicability. Subject to the availability of appropriations, this chapter applies to the award, allocation, and distribution of money that is disbursed to the department for the control of emissions or the development or administration of air quality control programs in the state including, but not limited to, funding from the

(1) Diesel Emissions Reduction Program established under the Energy Policy Act of 2005;

(2) American Recovery and Reinvestment Act of 2009; and

(3) Clean Air Act Section 103 and 105 State and Tribal Assistance Grant program. (Eff. __/__/__, Register __)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.020. Eligible entities. (a) The following entities are eligible to submit a proposal under this chapter:

(1) air pollution control agencies, public or nonprofit agencies, institutions, organizations or individuals as allowed by the Clean Air Act, Section 103 and 105;

(2) government organizations, education organizations, for-profit organizations, non-profit organizations, small businesses, and individuals as allowed under the American Recovery and Reinvestment Act of 2009; or

(3) regional agencies, state agencies, local agencies, tribal agencies or port authorities with jurisdiction over transportation or air quality, government organizations,

education organizations, for-profit organizations, non-profit organizations, small businesses, and individuals as allowed under the Diesel Emissions Reduction Program.

(b) To the extent that the department has received federal or other funds that the department may distribute, the department will award grants directly to awardees if they were included or specifically named within an original grant application or work plan submitted by the department. (Eff. __/__/__, Register __)

Authority: AS 44.46.020 AS 46.14.530 AS 46.14.535

18 AAC 54.030. Eligible subgrant proposals. To be eligible for a subgrant proposal under this chapter, a proposal must address the control of air emissions or the development or administration of air quality control programs in the state for the purpose of reducing air pollution. (Eff. __/__/__, Register __)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.040. Solicitation process. (a) The department will solicit applications for subgrants under this chapter by publishing notice of the solicitation in a newspaper of general circulations, and posting the notice on the Alaska Online Public Notice System established under AS 44.62.175. The department may publish the notice in an additional form or manner that the department considers helpful in making the solicitation known to the public. The department will provide applications on request to an applicant.

(b) Subject to the availability of funds, the department may solicit applications for air quality improvement grants. Solicitations will be written and will establish and describe

- (1) the purpose or activity for which grants are available;
- (2) criteria for applicant eligibility;
- (3) eligible activities;
- (4) application procedures, including required submissions and timeframes;
- (5) amounts of funding available; and
- (6) any specific criteria that will be used to evaluate applications.

(c) Solicitations may also describe other matters or include other information the department deems relevant and useful for its purposes or to assist applicants and the public.

(d) Grants awarded under 18 AAC 54.200 are exempt from solicitations.

(Eff. __/__/__, Register __)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.050. Application requirements. An application submitted in response to a solicitation under 18 AAC 54.040 must be

- (1) complete and on a forms provided by the department; to meet the requirements of this paragraph, the application must include a project narrative;
- (2) submitted by an eligible entity as described in 18 AAC 54.020;
- (3) for a project this is eligible under 18 AAC 54.030. (Eff. __/__/____, Register __)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.060. Preliminary proposal review. The department will conduct a preliminary review of an application to ensure that it meets the requirements of 18 AAC 54.050. At any time during the review under this section, the department may request additional information if it considers that information necessary to a complete review of the application. (Eff. __/__/____, Register __)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.070. Proposal review committee. For those grants where a subgrantee is not specifically identified in the original grant, the department will assemble a proposal review committee consisting of department employees to review the grant applications. If the department determines that the application meets the requirements of 18 AAC 54.050, the proposal review committee shall accept, score, and rank the application. (Eff. __/__/____, Register __)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.080. Proposal scoring process, criteria and subgrant offers. (a) Each member of the proposal review committee shall score a proposal on a scale of 0 – 100 total points, and shall award

(1) no more than 15 points for its rating of a proposed project’s design, goals, and results, as set out in the project description; the committee shall give a higher score to a proposal that meets at least one of the following criteria:

- (A) clearly explains the project goals and identifies measurable outcomes;
- (B) will have tangible and lasting results and that addresses project goals within the time allowed for completion;

(C) demonstrates an ability to provide for continuing financial and administrative support, if the proposal is for an ongoing project;

(2) no more than 20 points for its rating of a proposed project's demonstrated need and potential benefit; the committee shall give a higher score to a proposal that

(A) addresses a demonstrated need for addressing air pollution;

(B) will likely result in a lasting benefit for a community, region, or the state, or that will result in a product that can be used by an agency in the state or by a similarly situated community in the state; or

(C) effectively shares the results of the project with appropriate entities to maximize the project's benefits;

(3) no more than 5 points for its rating of a project's ability to achieve the purposes of the grant program;

(4) no more than 10 points for its rating of a proposal's collaboration with other agencies, the community, and the public and a proposal's level of support from those entities; the committee shall give a higher score to a proposal that

(A) includes appropriate consultation or collaboration with state agencies, communities, the public, or other appropriate entities; or

(B) includes a resolution or letter of support from the governing body of a community, a commitment of in-kind resources or financing, or other evidence of support from appropriate state agencies, communities, or the public;

(5) no more than 10 points for its rating of a proposed project's readiness; the committee shall give a higher score to a proposal that

(A) is well thought out and ready to be implemented;

(B) demonstrates a likelihood of receiving required permits or required landowner support; or

(C) has secured additional sources of financing, if those additional sources are necessary;

(6) no more than 20 points for its rating of the applicants capability to manage and implement the subgrant; the committee shall give a higher score to a proposal that

(A) demonstrates that the applicant has the capability to manage the administration of the subgrant, including the maintenance of an accurate accounting and reporting system; or

(B) demonstrates that key individuals have the experience, qualifications, and technical ability to successfully complete the project to the department's satisfaction; and

(7) no more than 20 points for its rating of the project's expected benefits to human health or the environment; the committee shall give a higher score to proposal that

(A) provides benefits to human health by addressing an identified air pollution problem; or

(B) will likely result in a lasting human health or environmental benefit for a community, region, or the state.

(b) Once all its members have completed their individual scores for a proposal, the proposal review committee shall average the individual scores to calculate a final score for that proposal. After it completes scoring the proposals, the proposal review committee shall rank the project proposals by score.

(c) The department will make final proposal selections based on the final scoring calculations and project rankings.

(d) The department will select two tiers of projects. For Tier 1, the department will select the highest-ranked projects, and will allocate available funding to these projects. For Tier 2, the department will rank and select projects for which subgrants will be awarded if additional money or money previously allocated to a Tier 1 project becomes available.

(e) The department will recommend a subgrant amount smaller than the amount sought if the department considers a reduced amount to be

(1) necessary to increase the amount supplied to the project by the recipient if the department considers the recipient to have additional resources available;

(2) necessary to eliminate money for inefficient or excessive components of the proposed project; or

(3) warranted by the merits of the project.

(f) The department will send an applicant written notification

(1) whether the applicant's project has been selected as a Tier 1 project, and if so, the department's recommended amount of any subgrant; or

(2) whether the project is assigned to Tier 2, and if so, the project's ranking within Tier 2 and the department's recommended amount of any subgrant. (Eff. __/__/__, Register __)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.090. Reconsideration. (a) No more than 10 days after receiving the department's written notification under 18 AAC 54.080(f), the applicant may make a request for reconsideration to the Air Quality division director. The request for reconsideration must be in writing and must identify each part of the decision to which the applicant objects.

(b) No more than 15 days after receiving a request for reconsideration, the Air Quality division director will review the request, the application, and any relevant supplemental material and may issue a written decision. If a written decision is not issued during the 15 days after a request for reconsideration is received, the request is considered denied. The Air Quality division director's decision on a request for reconsideration constitutes the final determination of the department.

(c) If the applicant fails to request reconsideration during the time set out in (a) of this section, the department's decision constitutes the final determination of the department. (Eff. __/__/__, Register __)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.100 Acceptance of subgrant offer; subgrant conditions. (a) Subject to the availability of appropriations, the department will negotiate a subgrant agreement with those applicants who have received the department's written notification under 18 AAC 54.080(f). A recipient of a final award determination does not have a vested right or other entitlement to a subgrant until a mutually acceptable definitive written subgrant agreement is negotiated and is executed by the department and the recipient.

(b) The department will incorporate any audit requirements made applicable by 2 AAC 45.010 in a subgrant agreement.

(c) As part of a subgrant agreement the department may require applicants to procure, maintain, and demonstrate liability, hazard, or worker's compensation insurance, may designate required policy limits, and may provide that the state will be an additional insured under a policy.

(d) During the term of a subgrant agreement, the subgrantee shall maintain and provide, at the department's request, all subgrant-related records, reports, invoices, documents, or other information required under the subgrant agreement.

(e) The department may withhold payment under the subgrant for the subgrantee's failure to comply with this chapter or the subgrant agreement. (Eff. __/__/__, Register __)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.110. Waiver of sovereign immunity. If the subgrantee is an entity that possesses sovereign immunity, the subgrantee must agree as a condition of receiving a subgrant that the subgrantee irrevocably waives its sovereign immunity with respect to enforcement of the subgrant agreement or claims related to the subgrant agreement. The waiver of sovereign immunity must be on a form approved by the Department of Law. (Eff. __/__/__, Register __)

Authority: AS 46.14.535

18 AAC 54.200. Joint Application Grants. Joint application grants may be awarded to grantees directly if they were included or specifically named within an original grant application or work plan submitted by the department. Joint application grants are exempt from the solicitation requirements outlined in 18 AAC 54.030 – 080. (Eff. __/__/____, Register ____)

Authority: AS 44.46.020 AS 46.14.535

18 AAC 54.900. Definitions. In this chapter, unless the context requires otherwise,
(1) “department” means the Department of Environmental Conservation;
(2) “proposal review committee” means the group assembled under 18 AAC 54.070.
(Eff. __/__/____, Register ____)

Authority: AS 44.46.020 AS 46.14.535